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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,544	07/20/2001	Roberto Ayala	YOR920010274US1/131-0004	2135

7590 12/16/2004  
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EXAMINER

MCALLISTER, STEVEN B

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/910,544

Applicant(s)

AYALA ET AL.

Examiner

Steven B. McAllister

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 14-25 and 39-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 26-38 and 51-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Species I, claims 1-13, 26-38 and 51-53 in the reply filed on 11/22/2004 is acknowledged.

Claims 14-25 and 39-50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/22/2004.

### ***Note Regarding IDS of 7/20/2001***

An IDS was submitted to the USPTO on 7/20/2001. The PTO-1449 associated with this IDS does not appear in the electronic file and has apparently been misplaced by the PTO. The examiner kindly requests that the applicant send a duplicate PTO-1449, so that the examiner may consider those references.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-13, 51 and 52 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claims are non-statutory because they lack a technological element (e.g., recitation of a computer performing the steps).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13, 26-38, 51 and 52 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 26 recite receiving a supplier capability statement. It further recites generating a constrained forecast using at least one supplier capability statement. However, it is not clear whether this second recitation of the supplier capability statement refers to the original recitation or refers to at least one second supplier capability statement unrelated to the first recited and unrelated to the process for receiving it.

Regarding claims 2 and 27, the claims recite performing a squared set analysis upon the supplier capability statement. In view of the specification, it is not clear to the examiner that the squared set analysis is performed upon the capability statement, but that a squared set analysis is performed using the capability statement as one of a plurality of inputs.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3627

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 9, 13, 26, 34, 38, 51 and 52 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Lidow (2002/0194057).

Lidow shows generating and transmitting an unconstrained forecast to at least one supplier; receiving from the supplier a capability statement; generating a revised constrained forecast and transmitting to at least one supplier; and receiving from the supplier a formal commitment to produce the needed supply in the forecast and provide it to the enterprise.

Alternatively, Lidow shows all elements except receiving the formal commitment. However, it is notoriously old and well known in the art to provide a formal commitment and to receive that commitment as part of the process of procuring parts. It would have been obvious to one of ordinary skill in the art to modify the method and software of Lidow by receiving such a commitment in order to reduce ambiguity in the process.

As to claims 9 and 34, Lidow shows the constrained forecast including a demand for materials factoring in resource constraints of the various suppliers.

As to claim 52, it is noted that Lidow shows receiving from a supplier a communication when the supplier is unable to produce the needed supply.

As to claims 3-5 and 28-30, Lidow shows all except that the forecast includes the aggregate demand from a division distributed over a network environment. However,

Art Unit: 3627

providing and receiving aggregate demand from such a distributed division is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to send and receive such information in order to facilitate efficient determination of the overall needs of the division, and to save money via larger and less frequent purchasing.

As to claims 6, 7, 31 and 32, it is noted that Lidow show all additional elements.

As to claims 2, 8, 10, 27, 33, and 35, Lidow shows all elements except generating a squared set build plan by performing a squared set analysis upon the supplier capability statement using capacity constraints. However, performing squared set analysis via BOM implosion is notoriously old and well known in the art. It would have been obvious to one of ordinary skill in the art to modify the method of Lidow by performing such analysis in order to better allocate resources.

As to claims 11, 12, 36 and 37, it is noted that Lidow shows the buyer producing a constrained forecast and transmitting it to the supplier.

As to claim 53, Lidow shows all elements of the claims except the running an MRP system to generate the forecasts. However, it is notoriously old and well known in the art to do so. It would have been obvious to one of ordinary skill in the arts to modify the method of Lidow by using an MRP system to generate the forecasts in order to provide for more efficient use of resources.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Steven B. McAllister

**STEVE B. MCALLISTER**  
**PRIMARY EXAMINER**